

Message Text

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DRAFTED BY EA/EGY:GRBEYER

APPROVED BY EA:ALATHERTON, JR.

L - MR. ALDRICH

NEA - MR. DAY

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S:DSPASSAGE

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FM SECSTATE WASHDC

TO USDEL SECRETARY IMMEDIATE

S E C R E T STATE 301804 TOSEC 320238

NODIS

FOR SECRETARY FROM ATHERTON

E.O. 11652: GDS

TAGS:PFOR IS EG US

SUBJECT: ACTION MEMORANDUM: AMOCO DRILLING IN GULF OF SUEZ:

FAMY MAKES COUNTER-PROPOSAL(S/S NO.7625409)

REF: CAIRO 16839

1. THE PROBLEM:

FAHMY PRESENTED TO HERMANN EILTS DECEMBER 7 A THREE POINT COUNTER-PROPOSAL TO OUR FOUR POINT PROPOSAL RELATING TO THE EFFORT TO ARRANGE FOR AMOCO TO RESUME DRILLING AT SITE 304.1 IN THE EASTERN GULF OF SUEZ. WE BELIEVE FAHMY'S THREE POINTS WOULD BE TURNED DOWN FLATLY IF PRESENTED TO THE ISRAELIS. HERMANN HAS TOLD FAHMY THAT BUT FAHMY HAS ASKED FOR YOUR OPINION. I SUGGEST IN YOUR REPLY WE TRY TO CONVINCE FAHMY THAT THE AIM OF HIS THREE POINTS IS ENCOMPASSED IN OUR PROPOSAL AND THAT TO APPROACH THE ISRAELIS WITH HIS POINTS WOULD RISK FORECLOSING ANY PROSPECT OF FINDING A PRACTICAL WAY TO GET DRILLING STARTED AT 304.1.

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2. DISCUSSION: FAHMY'S THREE POINTS (CONTAINED IN CAIRO

16839, ATTACHMENT 2) ARE LEGILISTIC AND,
EVEN FROM THAT
VIEWPOINT, OFF THE MARK. IF PASSED TO THE ISRAELIS, THIS
RESPONSE WOULD PUT THE EXCHANGE ON THIS ISSUE IN A CONTEXT
OF DISCUSSION OF LEGAL PRINCIPLE. YOUR APPROACH HAS BEEN

TO SEEK A PRACTICAL ARRANGEMENT FOR DRILLING TO PROCEED
AT 304.1 BY SPECIFICALLY RESERVING THE RESPECTIVE POSI-
TIONS ON LEGAL PRINCIPLE. FAHMY'S THREE POINTS WOULD
CERTAINLY BE REJECTED BY THE ISRAELIS. MORE IMPORTANTLY,
THEY WOULD PROBABLY CONVINCE THE ISRAELIS THAT EGYPT WAS
DETERMINED TO USE THE SITE 304.1 DRILLING ISSUE TO ESTA-
BLISH ITS LEGAL CLAIM THAT AMOCO IS ENTITLED TO DRILL
ANYWHERE IN GULF EGYPT DIRECTS, AND WOULD REINFORCE THEIR
RELUCTANCE TO ALLOW EVEN THIS ONE LIMITED DRILLING
ACTIVITY EAST OF THE MEDIAN LINE. HERMANN HAS ALREADY
MADE AN EXCELLENT REBUTTAL TO FAHMY. IN YOUR RESPONSE,
I SUGGEST THAT HERMANN, ACTING NOW UNDER YOUR INSTRUCTIONS,
ESSENTIALLY REAFFIRM HIS INITIAL ARGUMENTS.

3. RECOMMENDATION:

THAT YOU APPROVE THE ATTACHED TELEGRAM TO HERMANN.
APPROVE..... DISAPPROVE.....

4. ATTACHMENT 1 - TELEGRAM TO HERMANN.

EO 11652: GDS

TAGS: PFOR ENRG IS EG US

SUBJECT: AMOCO DRILLING IN THE GULF OF SUEZ: RESPONSE TO
FAHMY'S COUNTERPROPOSAL

REF: A) CAIRO 16839, B) STATE 261861

FOR AMBASSADOR FROM SECRETARY

1. YOUR REBUTTAL TO FAHMY'S COUNTERPROPOSAL REPORTED
CAIRO REFTEL WAS EXCELLENT. I WANT YOU TO REAFFIRM
THOSE SAME VIEWS TO FAHMY AS REFLECTING MY REACTION. I
ALSO WANT YOU TO STRESS TO HIM THAT I BELIEVE HIS THREE
POINTS ARE ADEQUATELY ENCOMPASSED IN OUR PROPOSAL AND TO
REASSURE HIM THAT THE U.S. LEGAL POSITION ON THE ISSUE
FULLY SUPPORTS EGYPTIAN SOVEREIGNTY OVER THE RESOURCES

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OF THE GULF, AND OVER ISRAELI OCCUPIED AREAS.

2. YOU SHOULD MAKE THE FOLLOWING SPECIFIC POINTS:
-- THE SECRETARY HAS REVIEWED CAREFULLY THE THREE POINTS
YOU PRESENTED ME AS A COUNTER-PROPOSAL TO OUR SUGGESTIONS.
-- HE WANTS ME TO EMPHASIZE TO YOU U.S. RESPECT FOR
EGYPTIAN SOVEREIGNTY IN THE OCCUPIED TERRITORIES AND
NOTHING IN OUR APPROACH TO THE PROBLEMS IN THE-GULF SHOULD

LEAD YOU OR ANYONE ELSE TO THINK THAT OUR POSITION ON THESE TERRITORIES HAS IN ANY WAY CHANGED.

-- AS OUR LEGAL OFFICERS EXPLAINED TO THE FOREIGN MINISTRY LEGAL ADVISOR, AL-ARABY, LAST OCTOBER, THE BEST LEGAL ARGUMENTS AVAILABLE TO COUNTER ISRAEL'S POSITION ON AMOCO'S ACTIVITIES IN THE GULF DERIVE FROM THE TRADITIONAL U.S. VIEW THAT RECOGNIZES ONLY A THREE MILE TERRITORIAL

SEA, AND FROM LAWS GOVERNING ACTIVITIES IN WATERS CONSIDERED HIGH SEAS, NOT INTERNAL OR TERRITORIAL. IF THE GULF WATERS ARE CONSIDERED INTERNAL OR TERRITORIAL, AND ISRAEL CAN ESTABLISH THAT IT EXERCISES EFFECTIVE CONTROL OVER THOSE WATERS, THEN, AS ON LAND, ISRAEL -- AS A TEMPORARY BELLIGERENT OCCUPANT, NOT AS THE SOVEREIGN -- CAN CLAIM THE RIGHT TO PROHIBIT SUCH COMMERCIAL ACTIVITIES IN THE OCCUPIED AREAS.

-- OUR EFFORT HAS BEEN TO PUT THE LEGAL ISSUE ASIDE, WHILE AT THE SAME TIME PERMITTING THE PARTIES TO RESERVE THEIR LEGAL POSITIONS. OUR PROPOSAL FULLY PROTECTS EGYPT'S VIEWS ON SOVEREIGNTY AS OUTLINED IN POINT ONE OF YOUR PROPOSAL.

-- THE PURPOSE OF YOUR POINTS TWO AND THREE ARE ALSO OUR PURPOSE AND WE ACCEPT THEM:

(A) WE WANT AMOCO TO PROCEED WITH DRILLING AT SITE 304.1 AS SOON AS POSSIBLE AND OUR PROPOSAL SAYS SO.

(B) WHILE WE NORMALLY DISCOURAGE U.S. COMPANIES FROM OPERATING IN AREAS OF CONFLICT, WE SUPPORTED AND CONTINUE TO SUPPORT AMERICAN COMPANIES PARTICIPATING IN EGYPTIAN OIL CONCESSIONS BECAUSE WE RECOGNIZE THE IMPORTANCE OF EGYPT'S OIL PRODUCTION GOALS AND WE ARE PREPARED TO DO WHAT WE CAN TO ENSURE THAT THESE OPERATIONS IN THE GULF GO FORWARD. THE PURPOSE OF POINT TWO IN OUR PROPOSAL, WHICH SPECIFICALLY REFERS TO DISCUSSIONS BETWEEN THE PAR-
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TIES, IS TO FACILITATE UNINTERRUPTED OPERATIONS.

-- WE ARE PREPARED TO ACT AS A MIDDLE-MAN IN ANY FUTURE DISCUSSIONS OF THIS SUBJECT.

-- WHILE YOUR THREE POINTS AND OUR PROPOSAL SEEK TO ACHIEVE THE SAME THING, WE ARE CONVINCED THE ISRAELIS WOULD NOT ACCEPT THE PHRASING OF THE THREE POINTS WHILE THEY HAVE ALREADY ACCEPTED OUR PROPOSAL. IN THIS RESPECT, IF EGYPT WISHES TO ADVANCE THIS SITUATION, WE SUGGEST THAT YOU ACCEPT OUR JUDGMENT AND GO FORWARD WITH OUR FOUR POINTS.

3. IF FAHMY REMAINS ADAMANTLY OPPOSED TO OUR PROPOSAL AFTER YOUR PRESENTATION, YOU SHOULD TELL HIM YOU MUST SEEK FURTHER INSTRUCTIONS. IN SUCH AN EVENT, I WOULD LIKE YOUR ADVICE AS TO WHETHER SADAT WILL ACCEPT OUR

PROPOSAL, OVER FAHMY'S OBJECTION, OR WHETHER WE SHOULD
RECONSIDER OUR POSITION ON THIS MATTER.

5. ATTACHMENT 2 - CAIRO 16839, FAHMY'S PRESENTATION OF
THREE POINTS TO HERMANN ELTS.

FOR S/S: REPEATED TO YOU IN TOSEC SERIES.

6. ATTACHMENT 3 - STATE 261861.

FOR S - COLLUMS: COPY IN MIDDLE EAST COMMUNICATIONS
BOOK UNDER EGYPT, 1: AMOCO.

7. DRAFTED:NEA/EGY:GRBEYER:NEA:ARDA:Y:SEB
CLEARED:NEA:ALATHERTON, JR.; L - MR. ALDRICH
S:
S/S:
ROBINSON

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NNN

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